

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

UNITED STATES OF AMERICA)	
)	
)	
v.)	CR. NO: 3:05-CR-0234-A
)	
)	
TYRONE WHITE)	

RESPONSE TO SHOW CAUSE ORDER

COMES NOW the United States of America, by and through Leura Garrett Canary, United States Attorney for the Middle District of Alabama, and files the instant response to this Court's show cause Order (doc. #22), as follows:

1. On October 20, 2005, the defendant ("White") filed a motion for disclosure of Fed. R. Evid. 404(b) evidence (doc. 15); a motion to reveal plea negotiations or agreements with witnesses (doc. 16); a motion to compel retention of agents' rough notes (doc. 17); and a motion for disclosure of federal Grand Jury "records" (doc. 18).

2. All of the above-referenced motions are due to be denied because they fail to comply with this Court's Standing Order on Criminal Discovery. (Cr. Misc. #534). This Court plainly states within the Order, the following:

No attorney shall file a discovery motion without first conferring with opposing counsel, and no motion will be considered by the court unless it is accompanied by a certification of such conference and a statement of the moving party's good faith efforts to resolve the subject matter of the motion by agreement with opposing counsel. No discovery motions shall be filed for information or material within the scope of this Rule unless it is a motion to compel, a motion for protective order or a motion for an order modifying discovery. See Fed. R. CRIM. P. 16(d). Discovery requests made pursuant to Fed. R. CRIM. P. 16 and this Order require no action on the part of this court and shall not be filed with the court, unless the party making the request desires to preserve the discovery matter for appeal.

None of White's motions contain a certification that counsel for the United States was contacted, a statement of the White's good faith efforts to resolve the subject matter of the motion by agreement with opposing counsel; nor are White's motions a motion to compel, a motion for protective order or a motion for an order modifying discovery, as required by the Standing Order.

3. Notwithstanding White's failure to comply with the Standing Order, the United States further responds:

a. With regard to White's 404(b) motion (doc. #15), the United States has complied with the Standing Order and has "advise[d] the defendant of its intention to introduce evidence in its case in chief at trial, pursuant to Rule 404(b) of the Federal Rules of Evidence" within its discovery letter. See Standing Order, ¶ 1(H).

b. With regard to White's Motion to "Reveal the Deal" (doc #16), the United States has complied with the Standing Order by not referencing any deals within its discovery letter, as no informant was utilized in this case and no deals have been made with any witnesses. See Standing Order, ¶¶ 1(C), (D) (requiring Giglio and confidential informant criminal history information to be disclosed in discovery).

c. With regard to White's motion for agents to preserve their rough notes (doc. #17), the United States has complied with the Standing Order and has "advise[d] all government agents and officers involved in the case to preserve all rough notes." Standing Order, ¶ 2(B).

d. With regard to White's motion for the Grand Jury "record" (doc. #18), the United States will comply with the Standing Order, ¶ 2(A), Fed. R. Crim. P. 26.2, and 18 U.S.C. § 3500, by providing grand jury transcripts, when required by those authorities.

4. Because White has failed to comply with the Standing Order, and because the United States has otherwise complied with the Standing Order and other applicable federal law, the United States respectfully moves this Court to deny White's motions.

Respectfully submitted this the 24th day of October, 2005.

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CERTIFICATE OF SERVICE

I hereby certify that on October 24, 2005, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Julian McPhillips, Esquire.

Respectfully submitted,

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